

**SERVE**  
2019CVK000320D3

**CITATION BY CERTIFIED MAIL  
THE STATE OF TEXAS**

**COURT DATE: 05/13/2019 AT 1:30 P.M.**

NOTICE TO THE DEFENDANT: "YOU HAVE BEEN SUED. YOU MAY EMPLOY AN ATTORNEY. IF YOU OR YOUR ATTORNEY DO NOT FILE A WRITTEN ANSWER WITH THE CLERK WHO ISSUED THIS CITATION BY 10:00 A.M. ON THE MONDAY NEXT FOLLOWING THE EXPIRATION OF TWENTY DAYS AFTER YOU WERE SERVED THIS CITATION AND PLAINTIFF'S ORIGINAL PETITION, A DEFAULT JUDGMENT MAY BE TAKEN AGAINST YOU."

**TO: ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY  
BY SERVING: CT CORPORATION SYSTEM  
1999 BRYAN ST STE 900  
DALLAS TX 75201**

DEFENDANT, IN THE HEREINAFTER STYLED AND NUMBERED CAUSE, YOU ARE HEREBY COMMANDED TO APPEAR BEFORE THE 341ST DISTRICT COURT of Webb County, Texas, to be held at the said courthouse of said county in the city of Laredo, Webb County, Texas, by filing a written answer to the Petition of Plaintiff at or before 10:00 O'CLOCK A.M. of the Monday next after the expiration of 20 days after the date of service thereof, a copy of which accompanies this citation, in the Cause #: 2019CVK000320D3, styled:

**MARIA PRUIT, PLAINTIFF  
VS.**

**ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY, DEFENDANT**

Said Plaintiff's Petition was filed on 02/19/2019 in said court by:

**MICHAEL LAWRENCE, ATTORNEY FOR PLAINTIFF  
3112 WINDSOR RD SUITE A234  
AUSTIN TX 78703**

WITNESS ESTHER DEGOLLADO, DISTRICT CLERK OF WEBB COUNTY, TEXAS, issued and given under my hand and seal of said court at office, on this the 22nd day of February, 2019.

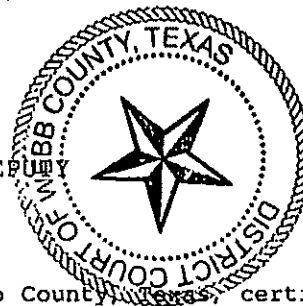
**C L E R K O F C O U R T**

**ESTHER DEGOLLADO, CLERK OF WEBB COUNTY, TEXAS  
P.O. BOX 667  
LAREDO, TX 78042**

BY:

  
**ARLENE GONZALEZ**

DEPUTY



**CLERK'S CERTIFICATE OF SERVICE**

I, Clerk of the District Courts and County Court at Law of Webb County, Texas, certify that I executed the foregoing citation in Webb County, Texas on this the 22nd day of February, 2019 by placing in the United States mail a true copy of this citation, with true copy of the aforesaid Pleading attached thereto, via Certified Mail No. 70170190000056195621 ADDRESSED TO: Allstate Fire And Casualty Insurance Company, Attn By Serving Ct Corporation System 1999 Bryan St Ste 900, Dallas Tx 75201 and endorsed thereon "RETURN RECEIPT REQUESTED," after having first endorsed on said copy of said citation the date of mailing and the name and address of the within-named recipient, to certify which witness my hand officially on this the 22nd day of February, 2019.

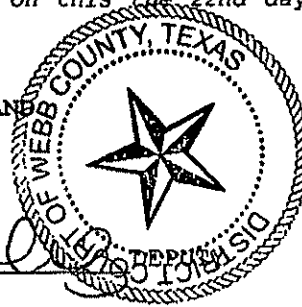
**ESTHER DEGOLLADO  
CLERK OF THE DISTRICT COURTS AND  
COUNTY COURT-AT-LAW  
OF WEBB COUNTY, TEXAS**

**ATTACH EVIDENCE OF MAILING  
AND RETURN RECEIPT HERE.**

BY:

  
**Arlene Gonzalez**

DEPUTY



**EXHIBIT**

**A**

tabbies



**HONORABLE BECKIE PALOMO**

**State District Court Judge**

341<sup>st</sup> JUDICIAL DISTRICT OF TEXAS

WEBB COUNTY JUSTICE CENTER

1110 Victoria Street, Suite 302

Laredo, Texas 78040-4439

**CIVIL CASE – CALENDAR CALL SETTINGS**

RE: CAUSE NO: 2019CVK000320D3

STYLE: MARIA PRUIT

VS

ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY

**NOTICE** that this case is **SET FOR CALENDAR CALL** on 05/13/2019 at 1:30 PM at the 341<sup>st</sup> District Courtroom, 3<sup>rd</sup> Floor, Webb County Justice Center.

Calendar Call hearings will be in open Court and on the record before **JUDGE BECKIE PALOMO**. Your presence is **MANDATORY** unless Counsel for Plaintiff(s) file a Joint Pre-Trial Guideline Order (PTGO) with all counsels signatures on the PTGO.

You may download the PTGO at our website:

[http://www.webbcountytx.gov/DC341st/Links/civ\\_Jury%20PTGO.pdf](http://www.webbcountytx.gov/DC341st/Links/civ_Jury%20PTGO.pdf)

Counsel for Plaintiff(s): if you do not appear for calendar call, your case may be dismissed for lack of prosecution.

Counsel for Defendant(s): if you do not appear for calendar call, a pre-trial guideline order may be entered with or without your approval and/or signature.

Call the court for jury selection dates and pre-trial hearing dates. Keep in mind jury selection must be set within the timeframes recommended by the Texas Supreme Court.

If there are any questions regarding this matter please feel free to call the court at the number below.

  
Marti G. Prew  
Civil Court Coordinator  
Tel: (956) 523-4483  
Fax: (956) 523-5055  


Filed  
2/19/2019 12:00 AM  
Esther Degollado  
District Clerk  
Webb District  
Arlene Gonzalez  
2019CVK000320D3

CAUSE NO. \_\_\_\_\_

MARIA PRUITT

*Plaintiff*

VS.

ALLSTATE FIRE AND  
CASUALTY INSURANCE COMPANY

*Defendant*

§ IN THE DISTRICT COURT  
§  
§ \_\_\_\_\_ JUDICIAL DISTRICT  
§  
§  
§  
§ WEBB COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, MARIA PRUITT complaining of ALLSTATE FIRE AND CASUALTY  
INSURANCE COMPANY and for cause of action would show:

**I. DISCOVERY**

1. This is a level III discovery case as defined by the Texas Rules of Civil Procedure.

**II. PARTIES**

2. Plaintiff resides in Webb County, Texas.

3. Defendant Allstate Fire and Casualty Insurance Company is a foreign corporation engaging in the business of insurance in the State of Texas. The defendant may be served with process by serving its registered agent for the State of Texas: CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

**III. JURISDICTION & VENUE**

4. The subject matter in controversy is within the jurisdictional limits of this court. The court has jurisdiction over Defendant Allstate Fire and Casualty Insurance Company (hereinafter "Allstate") because it is in the business of insurance in the State of Texas. Venue is proper in this county because the insured property is situated Webb County, Texas. Tex. Civ. Prac. & Rem. Code § 15.032.

**IV. FACTS**

5. Plaintiff is the owner of the Texas Homeowner's Insurance Policy (hereinafter referred to as "the Policy"), which was issued by Allstate.

6. Plaintiff owns the insured property, located at 6003 Frau Augusto, Laredo, Tx. 78043 (hereinafter referred to as "the Property").

7. Allstate sold the Policy insuring the property to Plaintiff.

8. On or about February 19, 2017, Plaintiff sustained extensive physical damage to the insured Property when strong supercell thunderstorms moved through the Webb County, Texas area producing heavy rains, and damaging wind and hail.

9. Plaintiff submitted claims to the Defendant against the policy for damages to the Property as a result of the February 19, 2017 storm. Plaintiff requested that the Defendant cover the costs of these repairs pursuant to the policy he entered into with the Defendant.

10. The Plaintiff reported the damage to the covered Property to the Defendant Allstate. The Defendant wrongfully denied Plaintiff's claim for full repairs to the Property, even though the Policy he has with the Defendant provided coverage for losses such as the losses suffered by the Plaintiff. Additionally, the Defendant under-scoped damages during its inspections, investigations, and payment and made representation that the policy the Plaintiff had with Defendant specifically excluded some repairs.

11. As of the date of this filing, the Defendant continues to delay in the payment for the damages to the property. As a result, Plaintiff has not been paid the full value of the damages suffered to his home.

12. Defendant Allstate failed to perform its contractual duties to adequately compensate Plaintiff under the terms of the policy. In spite of a demand for proceeds to be paid out in an amount sufficient to cover the damaged property, Defendant Allstate has categorically refused to

pay the full proceeds available under the policy. Additionally, all conditions precedent to recovery upon the Policy have been carried out by the Plaintiff. Defendant Allstate's conduct constitutes a breach of the insurance contract between Plaintiff and Defendant.

13. Defendant Allstate has misrepresented to Plaintiff there was no damage to areas of the home that were damaged, and that all damage covered under the Policy has been accounted for, even though it has not been paid in full. Defendant Allstate's conduct constitutes a violation of the Texas Insurance Code, Unfair Settlement Practices. Tex. Ins. Code §541.060(a)(1).

14. Defendant Allstat failed to make an attempt to settle Plaintiff's claim in a fair manner, although it was aware of its liability to Plaintiff under the Policy. Defendant Allstate's conduct constitutes a violation of the Texas Insurance Code, Unfair Settlement Practices. Tex. Ins. Code §541.060(a)(2)(A).

15. Defendant Allstate failed to adequately explain to Plaintiff the reasons for its offer of an inadequate settlement. Specifically, Defendant Allstate failed to offer Plaintiff adequate compensation, and misrepresented its explanation for why full payment was not being made. Furthermore, Defendant Allstate did not communicate that any future settlements or payments would be forthcoming to pay for the entire losses covered under the Policy, nor did it provide any explanation for the failure to adequately settle Plaintiff's claim. Defendant Allstate's conduct is a violation of the Texas Insurance Code, Unfair Settlement Practices. Tex. Ins. Code §541.060(a)(3).

16. Defendant Allstate refused to fully compensate Plaintiff, under the terms of the Policy, even though Defendant Allstate failed to conduct a reasonable investigation. Specifically, Defendant Allstate performed an outcome-oriented investigation of Plaintiff's claim, which resulted in a biased, unfair, and inequitable evaluation of Plaintiff's losses on the Property. Defendant Allstate's conduct constitutes a violation of the Texas Insurance Code, Unfair

Settlement Practices. Tex. Ins. Code §541.060(a)(7).

17. Defendant Allstate failed to accept or deny Plaintiff's full and entire claim within the statutorily mandated time of receiving all necessary information. Defendant Allstate's conduct constitutes a violation of the Texas Insurance Code, Prompt Payment of Claims. Tex Ins. Code §542.056.

18. Defendant Allstate failed to meet its obligations under the Texas Insurance Code regarding payment of claim without delay. Specifically, it has delayed full payment of Plaintiff's claim longer than allowed and, to date, Plaintiff has not received full payment for his claim. Defendant Allstate's conduct constitutes a violation of the Texas Insurance Code, Prompt Payment of Claims. Tex. Ins. Code §542.058.

19. Since the date Plaintiff presented his claim to Defendant Allstate, the liability of Defendant Allstate to pay the full claim in accordance with the terms of the Policy was reasonably clear. However, Defendant Allstate has refused to pay Plaintiff in full, despite there being no basis whatsoever on which a reasonable insurance company would have relied to deny the full payment. Defendant Allstate's conduct constitutes a breach of the common law duty of good faith and fair dealing.

20. Defendant Allstate knowingly or recklessly made false representations, as described above, as to material facts and/or knowingly concealed all or some material information from Plaintiff.

21. As a result of Defendant Allstate's wrongful acts and omissions, Plaintiff was forced to retain the professional services of the attorney and law firm who is representing him with respect to these causes of action.

#### **V. CAUSES OF ACTION**

**Causes of Action Against Defendant Allstate**

22. Defendant Allstate is liable to Plaintiff for intentional breach of contract, as well as intentional violations of the Texas Insurance Code and intentional breach of the common law duty of good faith and fair dealing.

**Breach of Contract**

23. Defendant Allstate's conduct constitutes a breach of the insurance contract made between Defendant Allstate and Plaintiff.

24. Defendant Allstate's failure and/or refusal, as described above, to pay adequate compensation as it is obligated to do under the terms of the Policy in question, and under the laws of the State of Texas, constitutes a breach of Defendant Allstate's insurance contract with Plaintiff.

**Noncompliance with Texas Insurance Code: Unfair Settlement Practices**

25. Defendant Allstate's conduct constitutes multiple violations of the Texas Insurance Code, Unfair Settlement Practices. Tex. Ins. Code §541.060(a). All violations under this article are made actionable by Tex. Ins. Code §541.151.

26. Defendant Allstate's unfair settlement practice, as described above, of misrepresenting to Plaintiff material facts relating to the coverage at issue, constitutes an unfair method of competition and an unfair and deceptive act or practice in the business of insurance. Tex. Ins. Code §541.060(a)(1).

27. Defendant Allstate's unfair settlement practice, as described above, of failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of the claim, even though Defendant Allstate's liability under the Policy was reasonably clear, constitutes an unfair method of competition and an unfair and deceptive act or practice in the business of insurance. Tex. Ins. Code §541.060(a)(2)(A).

28. Defendant Allstate's unfair settlement practice, as described above, of failing to promptly provide Plaintiff with a reasonable explanation of the basis in the Policy, in relation to the facts or applicable law, for its offer of a compromise settlement of the claim, constitutes an unfair method of competition and an unfair and deceptive act or practice in the business of insurance. Tex. Ins. Code §541.060(a)(3).

**Noncompliance with Texas Insurance Code: The Prompt Payment of Claims**

29. Defendant Allstate's conduct constitutes multiple violations of the Texas Insurance Code, Prompt Payment of Claims. All violations made under this article are made actionable by Tex. Ins. Code §542.060.

30. Defendant Allstate's delay of the payment of Plaintiff's claim following its receipt of all items, statements, and forms reasonably requested and required, longer than the amount of time provided for, as described above, constitutes a non-prompt payment of the claim. Tex. Ins. Code §542.058.

**Breach of the Duty of Good Faith and Fair Dealing**

31. Defendant Allstate's conduct constitutes a breach of the common law duty of good faith and fair dealing owed to insured in insurance contracts.

32. Defendant Allstate's failure, as described above, to adequately and reasonably investigate and evaluate Plaintiff's claim, although, at that time, Defendant Allstate knew or should have known by the exercise of reasonable diligence that its liability was reasonably clear, constitutes a breach of the duty of good faith and fair dealing.

**Fraud**

33. Defendant Allstate is liable to Plaintiff for common law fraud.

34. Each and every one of the representations, as described above, concerned material facts

for the reason that absent such representations, Plaintiff would not have acted as they did, and which Defendant Allstate knew were false or made recklessly without any knowledge of their truth as a positive assertion.

35. The statements were made with the intention that they should be acted upon by Plaintiff, who in turn acted in reliance upon the statements, thereby causing Plaintiff to suffer injury and constituting common law fraud.

#### **Knowledge**

36. Each of the acts described above, together and singularly, was done “knowingly,” as that term is used in the Texas Insurance Code, and was a producing cause of Plaintiff’s damages described herein.

#### **VI. DAMAGES**

37. Plaintiff would show that all of the aforementioned acts, taken together or singularly, constitute the producing causes of the damages sustained by Plaintiff.

38. As previously mentioned, the damages caused by this storm have not been properly addressed or repaired in the months and now years since the storm, causing further damages to the Property, and causing undue hardship and burden to Plaintiff. These damages are a direct result of Defendant Allstate’s mishandling of Plaintiff’s claim in violation of the laws set forth above.

39. For breach of contract, Plaintiff is entitled to regain the benefit of their bargain, which is the amount of their claim, together with attorney’s fees.

40. For noncompliance with the Texas Insurance Code, Unfair Settlement Practices, Plaintiff is entitled to actual damages, which include the loss of the benefits that should have been paid pursuant to the policy, mental anguish, court costs, and attorney’s fees. For knowing conduct of the acts described above, Plaintiff asks for three times his actual damages. Tex. Ins. Code

§541.152.

41. For noncompliance with Texas Insurance Code, Prompt Payment of Claims, Plaintiff is entitled to the amount of his claim, as well as eighteen (18) percent interest per annum on the amount of such claim as damages, together with attorney's fees. Tex. Ins. Code §542.060.

42. For breach of the common law duty of good faith and fair dealing, Plaintiff is entitled to compensatory damages, including all forms of loss resulting from the insurer's breach of duty, such as additional costs, economic hardship, losses due to nonpayment of the amount the insurer owed, exemplary damages, and damages for emotional distress.

43. For fraud, Plaintiff is entitled to recover actual damages and exemplary damages for knowingly fraudulent and malicious representations, along with attorney's fees, interest, and court costs.

44. For the prosecution and collection of this claim, Plaintiff has been compelled to engage the services of the attorney whose name is subscribed to this pleading. Therefore, Plaintiff is entitled to recover a sum for the reasonable and necessary services of Plaintiff's attorney in the preparation and trial of this action, including any appeals to the Court of Appeals and/or the Supreme Court of Texas.

45. For noncompliance with the Texas Insurance Code, Unfair Settlement Practices, Plaintiff is entitled to actual damages, which include his past and future medical expenses, that should have been paid pursuant to the policy, mental anguish, pain and suffering, court costs, and attorney's fees. For knowing conduct of the acts described above, Plaintiff asks for three times their actual damages. Tex. Ins. Code §541.152.

46. For noncompliance with Texas Insurance Code, Prompt Payment of Claims, Plaintiff is entitled to the amount of his claim, as well as eighteen (18) percent interest per annum on the

amount of such claim as damages, together with attorney's fees. Tex. Ins. Code §542.060.

47. For breach of the common law duty of good faith and fair dealing, Plaintiff is entitled to compensatory damages, including all forms of loss resulting from the insurer's breach of duty, such as additional costs, economic hardship, losses due to nonpayment of the amount the insurer owed, exemplary damages, and damages for emotional distress.

48. As required by Rule 47(b), Texas Rules of Civil Procedure, Plaintiff's counsel states that the damages sought are in an amount within the jurisdictional limits of this Court. As required by Rule 47(c), Texas Rules of Civil Procedure, Plaintiff's counsel states that Plaintiff seeks only monetary relief, the maximum of which is not more than \$74,999.00. Plaintiff also seeks pre-judgment and post-judgment interest at the highest legal rate.

## **VII. WRITTEN DISCOVERY**

### **Requests for Disclosure**

49. Under Texas Rule of Civil Procedure 194, Plaintiff requests that Defendant disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

#### **Plaintiff's 1<sup>st</sup> Requests for Production to Defendant Allstate**

50. Please produce a copy of your entire claims file, including memos, emails, estimates, records, a complete copy of the policy, letters, evaluations, etc. If you make claim of privilege for any documents requested in this request for production, then pursuant to TRCP 193.3(b), consider this Plaintiff's request that you identify the information and material withheld and the specific privilege asserted by producing a privilege log of each document withheld.

51. Please produce all non-privileged emails and other forms of communication between Allstate, its agents, adjusters, employees, or representatives and the adjuster, and/or their agents,

adjusters, representatives or employees relating to, mentioning, concerning or evidencing the Plaintiff's property which is the subject of this suit.

52. Produce any complete file (excluding all privileged portions) in Allstate's possession for the Plaintiff/insured and/or for the Plaintiff's property as listed in Plaintiff's Original Petition, relating to or arising out of any claim for damages which Allstate opened a claim under any policy. Please produce a privilege log for any portions withheld on a claim of privilege.

53. Produce the complete claim or adjusting file for Plaintiff's property. Please produce a privilege log for any portions withheld on a claim of privilege.

54. Produce all emails and other forms of communication between Allstate and and/or their agents, adjusters, representatives or employees relating to, mentioning, concerning or evidencing the Plaintiff's property which is the subject of this suit. This includes any correspondence or communications related to the Plaintiff's property, whether related to this claim or any other claim in Allstate's possession. Please produce a privilege log for any items withheld on a claim of privilege.

#### **PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that upon trial hereof, said Plaintiff have and recover such sums as would reasonably and justly compensate them in accordance with the rules of law and procedure, as to actual damages, treble damages under the Texas Insurance Code, and all punitive and exemplary damages as may be found. In addition, Plaintiff request the award of attorney's fees for the trial and any appeal of this case, for all costs of Court on their behalf expended, for prejudgment and post-judgment interest as allowed by law, and for any other and further relief, either at law or in equity, to which they will show himself justly entitled.

Respectfully submitted,

LAWRENCE LAW FIRM  
3112 Windsor Rd., Suite A234  
Austin, Texas 78703  
(956) 994-0057  
(800) 507-4152 FAX

By: /s/ Michael A. Lawrence

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ATTORNEYS FOR PLAINTIFF